

FCC MAIL SECTION

Federal Communications Commission

DA 99-1146

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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 99-71
Table of Allotments,)	RM-9362
FM Broadcast Stations.)	
(Ironton and Salem, Missouri))	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 2, 1999

Released: June 11, 1999

By the Chief, Allocations Branch:

1. In response to a petition filed on behalf of Dockins Communications, Inc. ("Dockins"), licensee of Station KYLS-FM, Ironton, Missouri, and Ultra-Sonic Broadcast Stations, Inc. ("Ultra-Sonic"), licensee of Station KKID(FM), Salem, Missouri, the Commission has before it for consideration the Notice of Proposed Rule Making, 14 FCC Rcd 3584 (1999). Dockins and Ultra-Sonic requested the substitution of Channel 240C3 for Channel 224A at Ironton, Missouri, and modification of the license for Station KYLS to specify operation on Channel 240C3. To accommodate the substitution at Ironton, Dockins and Ultra-Sonic also requested the substitution of Channel 225C3 for Channel 240A at Salem, Missouri, and modification of the license for Station KKID(FM) to specify operation on Channel 225C3. Dockins and Ultra-Sonic filed comments supporting the proposed channel changes. No other comments were received in response to the Notice in this proceeding.

2. As stated in the Notice, the proposed channel swap with Station KKID at Salem is required to accommodate the proposed modification of Station KYLS at Ironton. As no other alternate channels are available at either location, the proposed channel substitutions create a mutually exclusive relationship as contemplated by Section 1.420(g)(3) of the Commission's Rules, and therefore the proposal is exempt from the consideration of competing expressions of interest. See Modification of FM Broadcast Licenses to Higher Class Co-channel or Adjacent Channels ("Modification of FM Broadcast Licenses to Higher Class Co-channel or Adjacent Channels ("Modification"), 60 RR 2d 114,120 (1986).¹

¹ Section 1.420(g)(3) permits the modification of a station's authorization to a higher class channel if the channel is a co-channel or mutually-exclusive adjacent channel. Moreover, the Commission will consider analogous proposals involving channel substitutions at other communities which would be necessary to create a mutually exclusive relationship required pursuant to Section 1.420(g)(3), and has determined to consider these "incompatible channel swaps" on a case-by-case basis.

3. In response to the Notice, Dockins and Ultra-Sonic filed comments stating adoption of the joint proposal will result in significant public interest benefits as the area served by KYLS, Ironton, will increase from 1,846.7 square kilometers to 4,681.8 square kilometers which constitutes an increase of 153% with an increase in population of 146% from 15,802 people to 38,933 people. Further, Station KKID, Salem would have an increase of 388% in area, from 974.8 square kilometers to 4,755.4 square kilometers with a population increase from 11,410 people to 49,796 people. Dockins emphasized that Station KYLS is precluded from upgrading to C3 status on its current channel because of short spacings to Station WVZA, Herrin, Illinois, Station KMAL, Malden, Missouri and to applications for a new station at Poplar Bluff, Missouri, and that the only channel available can be used only if Station KKID, Salem, also changes channels. Dockins points out that the channel change at Salem allows Station KKID to upgrade its facility, thereby serving a larger population. Dockins and Ultra-Sonic also state that no loss of service will occur with adoption of this proposal and have restated their intention to promptly construct such facilities upon grant of the applications.

4. After careful consideration of the proposal, we conclude that the public interest would be served by the exchange of channels at Ironton and Salem, Missouri, as expanded service will be provided to both communities. Therefore, we will substitute Channel 240C3 for Channel 224A at Ironton, Missouri, and modify the license for Station KYLS-FM to specify operation on the higher class channel. In order to accomplish the substitution at Ironton, we shall also substitute Channel 225C3 for Channel 240A at Salem, Missouri, and modify the license for Station KKID(FM) accordingly. Both substitutions can be made in compliance with the Commission's minimum distance spacing requirements.²

5. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective July 26, 1999, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the communities listed below, as follows:

Community	Channel Number
Ironton, Missouri	240C3
Salem, Missouri	225C3

6. IT IS FURTHER ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, the license of Dockins Communications, Inc. for Station KYLS-FM, Ironton, Missouri, IS MODIFIED to specify operation on Channel 240C3 in lieu of Channel 224A, subject to the following conditions:

² The coordinates for Channel 240C3 at Ironton are 37-33-46 and 90-44-29. The coordinates for Channel 225C3 at Salem are 37-38-01 and 91-32-05.

(a) Within 90 days of the effective date of this Order, the licensee shall file with the Commission a minor change application for construction permit (Form 301), specifying the new facility;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

7. IT IS FURTHER ORDERED, That pursuant to the authority contained in Section 316(a) of the Communications Act of 1934, as amended, that the license of Ultra-Sonic Broadcast Stations, Inc. for Station KKID(FM), Salem, Missouri, IS MODIFIED, to specify operation on Channel 225C3 in lieu of Channel 240A, subject to the following conditions:

(a) Within 90 days of the effective date of this Order, the licensee shall submit to the Commission a minor change application for a construction permit (Form 301).

(b) Upon grant of the construction permit, program tests may be conducted in accordance with Section 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental assessment pursuant to Section 1.1307 of the Commission's Rules.

8. Pursuant to Commission Rule Section 1.1104(1)(k) and (2)(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of an existing FM allotment, **if the request is granted**, must submit a rule making fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Dockins Communications, Inc., licensee of Station KYLS-FM, Ironton, and Ultra-Sonic Broadcast Stations, Inc., licensee of Station KKID(FM), Salem, are required to submit a rule making fee in addition to the fee required for the application to effect the upgrades at Ironton and Salem, Missouri.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

10. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions related to the application filing process for Channel 240C3 at Ironton, Missouri, or Channel 225C3 at Salem, Missouri, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
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Mass Media Bureau